



Upper Tribunal
(Immigration and Asylum Chamber)

Appeal Number: AA/02355/2013

THE IMMIGRATION ACTS

Heard at Bradford
On 20 August 2013

Determination Sent
On 25 September 2013

Before

UPPER TRIBUNAL JUDGE CLIVE LANE

Between

HASSAN SHOJAE SHAFFIEI

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Miss S Khan, instructed by Switalskif Solicitors
For the Respondent: Mr J Wardle, a Senior Home Office Presenting Officer

DETERMINATION AND REASONS

1. The appellant, Hassan Shojae Shafiei, was born on 7 January 1979 and is a citizen of Iran. On 15 February 2013, the respondent decided to remove the appellant from the

United Kingdom as an illegal entrant. The appellant appealed against that decision to the First-tier Tribunal (Judge Saffer) which, in a determination which is dated 15 April 2013, dismissed the appeal. The appellant now appeals, with permission, to the Upper Tribunal.

2. The respondent has filed a reply under Rule 24. The second paragraph of this letter reads: "The respondent does not oppose the appellant's application for permission to appeal and invites the Tribunal to determine the appeal with a fresh oral (continuance) hearing (*sic*)"
3. The judge's findings of fact at [21] *et seq* amount, as Judge Blandy observed when granting permission, to nothing more than a series of statements to the effect that the judge did not consider parts of the appellant's account of past events in Iran to have been reasonably likely to have occurred. The appellant's explanations of apparent implausibilities in his account have not been addressed by the judge and no attempt has been made to distinguish "core" from "peripheral" parts of the appellant's account. If the appellant offers an explanation, this does not, of course, mean that the judge must accept it. He should, however, have given details of any explanation and his reasons for rejecting it. Judge Saffer was right to observe that he was not obliged to accept as true the uncorroborated evidence of the appellant but that observation does not justify the wholesale and unreasoned rejection of the appellant's credibility. As Judge Blandy observed, "a finding that something is not reasonably likely does not necessarily amount to a finding that is not actually true." Further, there has been no attempt by the judge to examine the credibility of the appellant's account against the background of general evidence relating to Iran. In the circumstances, I find that the judge has erred in law and I set aside his determination. I find that none of the findings of fact may stand. Given the need to make new primary findings of fact and to hear oral evidence from the appellant, I consider it appropriate to remit this appeal to the First-tier Tribunal so that that Tribunal may remake the decision.

DECISION

4. The determination of the First-tier Tribunal which is dated 15 April 2013 contains errors of law such that it falls to be set aside. The appeal will be remitted to the First-tier Tribunal (not Judge Saffer) to remake the decision.

Signed

Date 12 September 2013

Upper Tribunal Judge Clive Lane